



AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

Report to the Australian Senate

**On anti-competitive and other practices by
health insurers and providers in relation to
private health insurance**

For the period 1 July 2019 to 30 June 2020

Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601
© Commonwealth of Australia 2020

This work is copyright. In addition to any use permitted under the *Copyright Act 1968*, all material contained within this work is provided under a Creative Commons Attribution 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Content and Digital Services, ACCC, GPO Box 3131, Canberra ACT 2601.

Important notice

The information in this publication is for general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.

Parties who wish to re-publish or otherwise use the information in this publication must check this information for currency and accuracy prior to publication. This should be done prior to each publication edition, as ACCC guidance and relevant transitional legislation frequently change. Any queries parties have should be addressed to the Director, Content and Digital Services, ACCC, GPO Box 3131, Canberra ACT 2601.

ACCC 12/2020_20-67

www.accc.gov.au

Contents

Shortened terms	ii
Executive Summary	1
1. Introduction	4
1.1 Senate order	4
1.2 Role of the ACCC	4
1.3 Methodology in preparing this report	5
2. Key industry developments and trends	6
2.1 Private Health Insurance membership	7
2.2 Premiums paid by consumers to health insurers	8
2.3 Benefits paid by health insurers to consumers	12
2.4 Insurer responses to the COVID-19 pandemic	14
2.5 Consumer responses to private health insurance costs	19
2.6 Policy exclusions and excesses	21
2.7 Out-of-pocket (gap) costs	22
2.8 Consumer complaints about private health insurance	24
3. ACCC enforcement actions, competition exemption and industry engagement	27
3.1 ACCC enforcement actions	27
3.2 Competition exemption	28
3.3 Consumer Health Regulators Group	29
4. Policy developments in private health insurance	30
4.1 Initiatives announced in the 2020–21 budget	30

Shortened terms

ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
AMA	Australian Medical Association
APRA	Australian Prudential Regulation Authority
Bupa	Bupa HI Pty Ltd
CCA	<i>Competition and Consumer Act 2010</i> (Cth)
CPI	Consumer price index
HBF	HBF Health Limited
HCF	The Hospitals Contribution Fund of Australia Limited
HealthEngine	HealthEngine Pty Ltd
Medibank	Medibank Private Limited
NHRA	National Health Reform Agreement
NIB	NIB Health Funds Limited
PHIO	Private Health Insurance Ombudsman
Ramsay	Ramsay Health Care Australia Pty Limited
WPI	Wage price index

Executive Summary

This is the 22nd report to the Australian Senate prepared by the Australian Competition and Consumer Commission (ACCC) on competition and consumer issues in the private health insurance industry. This report is for the period 1 July 2019 to 30 June 2020 (the reporting period).

This report analyses key competition and consumer developments and trends in the private health insurance industry during the reporting period that may have affected consumers' health cover and out-of-pocket expenses. This report also considers insurer responses to the COVID-19 pandemic.

Premiums continue to increase and participation rates continue to decline

In 2019–20, private health insurance participation rates continued to decline. Cumulative premium increases have been higher than inflation and wage growth in the past five years, indicating that households with private health insurance are contributing an increasing proportion of their incomes to paying premiums. However, there has been a downward trend in the rate of average annual premium increases.

There was a reduction in the proportion of Australians holding private health insurance during 2019–20, as occurred during the previous year. The number of people covered by private health insurance has declined in most age groups up to age 60, while the numbers of insured over 60 years old are increasing.

A number of other developments have also taken place in 2019–20 that may help address longer-term pressure on insurance premiums. In particular, both the May 2020 Addendum to the 2020–2025 National Health Reform Agreement (which amongst other objectives seeks to remove the incentive for public hospitals to admit private patients), and certain vertically integrated insurers' investment in the short stay model of care. Numerous observers have also supported calls for an in-depth inquiry into the viability of private health insurance, at least partly due to concerns about increasing premiums and lower participation rates.

Significant decline in benefits paid due to COVID-19 restrictions

From late March 2020, government imposed restrictions in response to the COVID-19 pandemic limited non-urgent elective surgery and non-urgent 'extras' treatments (including most dental, optical and other health services). The total amount of hospital benefits paid to consumers by health insurers in 2019–20 was over \$15.3 billion, and the amount of extras treatment benefits paid was around \$4.96 billion, which was a combined reduction of around \$500 million in benefits compared to 2018–19.

Insurers commit to returning profits to policyholders

While insurers have acknowledged that COVID-19 restrictions reduced their ability to fund hospital and extras treatments, they have publicly committed to returning any profits gained from the pandemic to their policyholders and claim to have already returned substantial sums since the pandemic began. In particular through hardship measures (e.g. premium waivers or policy suspensions to policyholders financially impacted by COVID-19) and through postponing the April 2020 premium increase for at least six months—or cancelling it altogether.

For example, one of the major insurer associations, Private Healthcare Australia, claimed in November 2020 that health funds had returned over \$500 million to policyholders during the COVID-19 pandemic—and that internal data indicated that policyholders were back to using their insurance for extras treatments at close to pre COVID-19 levels. Private Healthcare Australia stated that insurers would use any remaining savings accumulated due to COVID-19 to help address accumulated demand for non-urgent elective surgery.

However, while APRA reported in August 2020 that it had advised health funds that it expects deferrals of procedures that resulted from COVID-19 to occur ‘in the next 12 months’,¹ it remains somewhat unclear how long it will take private hospitals to clear their own build-up of private patient episodes—particularly in Victoria.

Monitoring future benefit payments and the treatment of funding set aside for deferred medical procedures

The Minister for Health will have an opportunity to consider the following matters when assessing each health fund’s application to change premiums from April 2021:

- information on projected future benefit payments, including from claims deferred as a result of the COVID-19 pandemic
- the reasonableness of the proposed treatment of any funding set aside for deferred medical procedures.

The Department of Health will continue to monitor these matters throughout 2021, and advise the Minister for Health as appropriate.

In addition, the ACCC expects insurers to act on the public commitments to return profits gained from COVID-19 restrictions to policyholders, including through the provision of hardship measures and the timely discharge of any accumulated demand for non-urgent elective surgery. In preparing the next report to the Senate for the 2020–21 reporting period, the ACCC will consider the actions taken by insurers in this regard.

Private health insurance complaints have decreased

In 2019–20, the Private Health Insurance Ombudsman (PHIO) received 3,706 complaints about private health insurance. The number of complaints decreased by 8.3% from the 2018–19 figure of 4,042. The PHIO reported that 85% of complaints in 2019–20 were about health insurers. Issues regarding benefits continued to be the most frequently raised issue in complaints, making up almost 32% of total complaints. Key issues of concern with the benefit category in 2019–20 included hospital policies with unexpected exclusions and restrictions, and complaints about extras treatment.

In 2019–20, the ACCC received 246 contacts (enquiries and complaints) in relation to private health insurance issues, which was a 45% increase from 2018–19.

1 APRA, *Statistics: Quarterly private health insurance statistics - highlights June 2020*, 18 August 2020, viewed 20 November 2020, p. 3, <https://www.apra.gov.au/sites/default/files/2020-08/Private%20health%20insurance%20quarterly%20statistics%20highlights%20June%202020.pdf>.

ACCC enforcement actions and competition exemptions

In 2019–20, in response to proceedings filed by the ACCC, the Federal Court imposed penalties against Medibank Private Limited and HealthEngine Pty Ltd, totalling \$5 million and \$2.9 million respectively, for a range of breaches of the Australian Consumer Law. The Federal Court dismissed the ACCC’s case against Ramsay Health Care Australia Pty Ltd for alleged misuse of market power and exclusive dealing in the Coffs Harbour region. The ACCC continues to await the outcome of proceedings instituted in the Federal Court in May 2017 against NIB Health Funds Limited, regarding alleged misleading or deceptive conduct, unconscionable conduct and false representations.

On 17 September 2020, the ACCC granted private health insurers an exemption from the operation of the competition laws until 31 March 2021 in relation to conduct to coordinate the provision of financial relief to policyholders during the COVID-19 pandemic, and broadening insurance coverage to include COVID-19 treatment, tele-health and medical treatment provided at home. The exemption is conditional on details of proposed measures being provided to the ACCC in advance, and excludes agreements to increase premiums.

Policy developments in private health insurance

On 6 October 2020, the Australian government announced a range of initiatives aimed at making private health insurance simpler and more affordable. In particular, the government announced an increase to the maximum age of dependants for private health insurance policies from 24 to 31 years, and additionally committed an additional \$17.1 million to upgrade the [Medical Costs Finder](#) website by including information about individual specialists’ fees. The Australian government will also consult with stakeholders about making home and community based mental health and rehabilitation care more accessible through private health insurance, and will fund external actuarial studies into two important aspects of the private health insurance system; being Lifetime Health Cover and Risk Equalisation.

1. Introduction

For its 22nd report to the Australian Senate, the Australian Competition and Consumer Commission (ACCC) has prepared a report which provides an update on key competition and consumer developments and trends in the private health insurance industry between 1 July 2019 and 30 June 2020 (the reporting period), and developments since the end of the reporting period.

In particular, the ACCC has had regard to the impact of the COVID-19 pandemic on the health sector, specifically regarding private health insurers' response to the government imposed restrictions on non-urgent elective surgery and non-urgent 'extras' treatments.

1.1 Senate order

This report has been prepared in compliance with a current Australian Senate order, under which the ACCC has an obligation to report annually on competition and consumer issues in the private health insurance industry.² The complete Senate order is extracted below.

Senate order

There be laid on the table as soon as practicable after the end of each 12 months ending on or after 30 June 2003, a report by the Australian Competition and Consumer Commission containing an assessment of any anti-competitive or other practices by health insurers or providers which reduce the extent of health cover for consumers and increase their out-of-pocket medical and other expenses.

1.2 Role of the ACCC

The ACCC is an independent Commonwealth statutory authority whose role is to enforce the *Competition and Consumer Act 2010* (Cth) (CCA), including the Australian Consumer Law (ACL), which is a single national law providing uniform consumer protection and fair trading laws across Australia. The ACL is enforced by the ACCC and state and territory fair trading agencies. The object of the CCA is to enhance the welfare of Australians by promoting fair trading and competition, and through the provision of consumer protection.

In addition to preparing this report in accordance with the Senate order, the ACCC has a broader role in the private health insurance industry of enforcing and encouraging compliance with the CCA and ACL.³ The statutory consumer protections in the CCA apply to relationships between consumers and health insurers, hospitals, medical facilities, health providers and practitioners. Competition laws also govern relationships between industry players and, among other things, restrict anti-competitive arrangements and exclusionary conduct.

The ACCC's Compliance and Enforcement Policy and Priorities outlines our enforcement powers, functions, priorities and strategies.⁴ The ACCC updates this document yearly to reflect current and enduring priorities.

2 Senate procedural order no. 18 Health—Assessment reports by the Australian Competition and Consumer Commission agreed to 25 March 1999, by means of an amendment to the motion that the report of the committee on Health Legislation Amendment Bill (No. 2) 1999 be adopted. J.626, amended 18 September 2002 J.761.

3 The Australian Prudential Regulation Authority (APRA) supervises private health insurers operating in Australia under a regulatory framework as set out on APRA's [website](#).

4 ACCC, *ACCC's compliance & enforcement policies and priorities*, 2020, <https://www.accc.gov.au/about-us/australian-competition-consumer-commission/compliance-enforcement-policy-priorities>.

1.3 Methodology in preparing this report

In preparing the 2019-20 private health insurance report, the ACCC has drawn on information and data from a range of sources, including desktop research and contacts data.

Key industry data used and relied upon by the ACCC includes:

- industry statistics and data collected by the Australian Prudential Regulation Authority (APRA)
- private health insurance complaints data from the Private Health Insurance Ombudsman (PHIO).⁵

⁵ The PHIO is a specialist role of the Commonwealth Ombudsman.

2. Key industry developments and trends

This chapter sets out the key competition and consumer developments and trends in the private health insurance industry that occurred in 2019–20, as summarised below.

Summary of key industry developments and trends in 2019–20

- In June 2020, the number of Australians holding hospital only or combined health insurance cover continued to decline, with 43.6% of the Australian population holding such cover. This was a decrease of 0.7% from June 2019. Meanwhile, the proportion of the population holding extras treatment only policies remained at 9.4%, which is approximately the same proportion as June 2019.
- While cumulative premium increases have been higher than inflation and wage growth over the past five years, there has been a downward trend in the average annual premium increase, falling from around 5.6% in the 12 months to June 2016 to around 2.9% for 2019–20. Due to COVID-19, most insurers ultimately deferred scheduled premium increases from April 2020 until October 2020, with additional premium increases still expected in April 2021 (i.e. for 2020–21). However, both HBF and Teachers Union Health cancelled the scheduled April 2020 premium increase completely, and committed to freezing existing premiums until 1 April 2021.
- In 2019–20, consumers paid \$24.9 billion in private health insurance premiums, an increase of \$333 million, or 1.4%, from 2018–19.
- From late March 2020, government imposed restrictions in response to the COVID-19 pandemic limited non-urgent elective surgery and non-urgent 'extras' treatments (including most dental, optical and other health services). The total amount of hospital benefits paid to consumers by health insurers was over \$15.3 billion, and the amount of extras treatment benefits paid was around \$4.96 billion. This represents a combined reduction in benefits paid to consumers of around \$500 million compared to 2018–19.
- While insurers have acknowledged that COVID-19 restrictions reduced their ability to fund hospital and extras treatments, they have also argued that funds have returned substantial sums to policyholders, in addition to benefits, including through hardship measures and the deferral of the April 2020 premium increase for at least six months. Insurers have also stated they will use any remaining savings accumulated due to COVID-19 restrictions to help address accumulated demand for non-urgent elective surgery. However, while APRA reported in August 2020 that it had advised health funds that it expects deferrals of procedures resulting from COVID-19 restrictions to occur 'in the next 12 months', it remains unclear how quickly private hospitals will be able to clear their own build-up of private patient episodes—particularly in Victoria.
- The proportion of hospital policies with exclusions increased by around 1.1%, from June 2019 (57.6%) to June 2020 (58.7%). The number of hospital policies with an excess or co-payment also continued to increase slightly, from 84.8% to 85.8%.
- 91% of in-hospital treatments were delivered without requiring any gap payment from patients, an increase of around 4.2% from 2018–19. Where gap payments were incurred for hospital treatment, these *decreased* by 7.9% from the previous year, with an increase of 2% for extras treatment.
- Complaints to the PHIO have decreased by 8.3% since June 2019. Over the same period, the ACCC received 246 contacts relating to private health insurance, which was a 45% increase compared to 2018–19.

2.1 Private Health Insurance membership

As of 30 June 2020, 13.6 million Australians, or approximately 53% of the population, had some form of private health insurance.⁶ While the number of insured persons increased by 9,458 between July 2019 and June 2020, the Australian population itself grew by approximately 337,252, or 1.3%.⁷ This means that the proportion of Australians holding private health insurance fell by 0.6% from June 2019 (53.6%).⁸

This decrease in the proportion of Australians with private health insurance membership continues the trend from the 2019 financial year, when the total proportion of Australians with health insurance fell by 0.6%, while the Australian population grew by almost 1.5%.⁹

Types of private health insurance

There are broadly two types of private health insurance.

Hospital treatment policies help cover the cost of in-hospital treatment by doctors and hospital costs such as accommodation and theatre fees. This report generally refers to these policies as **hospital cover** or **hospital policies**.

General treatment policies, also known as **extras** or **ancillary** cover, provide benefits for non-medical health services such as physiotherapy, dental and optical treatment. This report generally refers to these policies as **extras cover** or **extras policies**.

Many consumers hold combined policies that provide cover for both hospital and extras services.¹⁰

Table 1 shows the reduction in the proportion of the population holding hospital only or combined cover, from 44.3% in June 2019 to 43.6% in June 2020.¹¹ During the same period, the proportion of the population holding extras only policies increased by almost 40,000 people, remaining at around 9.4% of Australians.¹²

Table 1: Insured Australian consumers by policy type, June 2018 to June 2020

	Hospital only or combined cover	Extras cover only	Total insured persons
June 2018	11,259,263	2,287,859	13,547,122
<i>% of population</i>	45.1%	9.2%	54.2%
June 2019	11,227,569	2,373,768	13,601,337
<i>% of population</i>	44.3%	9.4%	53.6%
June 2020	11,197,395	2,413,400	13,610,795
<i>% of population</i>	43.6%	9.4%	53%

Note: Figures may not add up due to rounding

Source: APRA, *Statistics: Private health insurance membership trends June 2020*.

6 APRA, *Statistics: Private health insurance membership and coverage June 2020*, 18 August 2020, viewed 20 November 2020, <https://www.apra.gov.au/sites/default/files/2020-08/Private%20health%20insurance%20membership%20trends%20June%202020.xlsx>.

7 Ibid.

8 Ibid.

9 ACCC, *ACCC 2018-19 Private Health Insurance report to the Australian Senate*, 2 March 2020, p. 5, <https://www.accc.gov.au/publications/private-health-insurance-reports/private-health-insurance-report-2018-19>.

10 Ambulance cover may be available separately, combined with other policies, or in some cases is covered by state or territory governments.

11 APRA, *Statistics: Private health insurance membership trends June 2020*, 18 August 2020, viewed 18 November 2020, <https://www.apra.gov.au/sites/default/files/2020-08/Private%20health%20insurance%20membership%20trends%20June%202020.xlsx>.

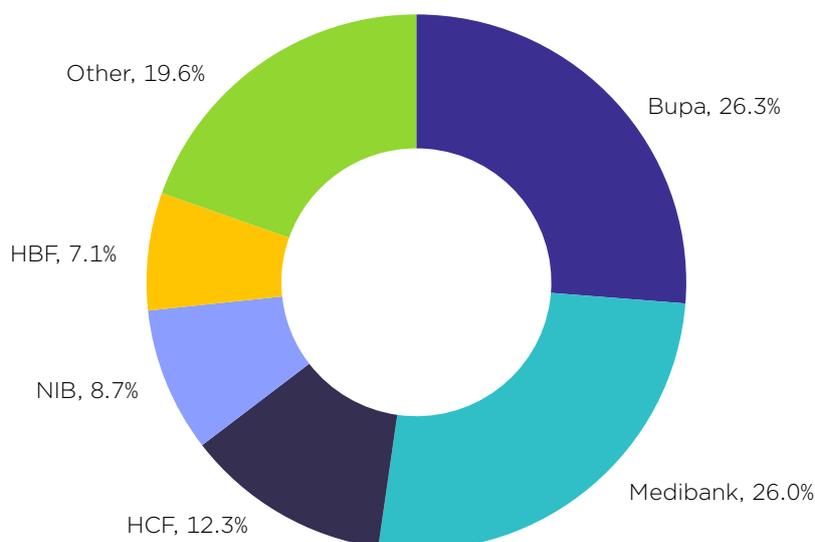
12 Ibid.

Membership by health insurer

In 2019–20, there were a total of 37 health funds operating in Australia, including both not-for-profit insurers and for-profit insurers.¹³ Bupa HI Pty Ltd (Bupa) remained Australia's largest health insurer ahead of Medibank Private Limited (Medibank), with Bupa ending the 2019–20 financial year with approximately 3.57 million members (as measured by individuals covered), compared to Medibank with around 3.53 million members.¹⁴

As at June 2020, the five largest health insurers in Australia provided cover to around 80.4% of Australian consumers that have private health insurance. As shown in figure 1, Bupa and Medibank represented over half of the Australian private health insurance market, with market shares of 26.3% and 26% respectively. The next three largest insurers—The Hospitals Contribution Fund of Australia Limited (HCF), NIB Health Funds Limited (NIB) and HBF Health Limited (HBF)—had a combined market share of around 28%.

Figure 1: Insurer market share by Australians covered, 2019–20



Source data: APRA, *Statistics: Operations of private health insurers annual report 2019–20*, Table 3.

While the five largest health insurers have a combined market share of around 80.4% they contributed to almost 77.7% of total health fund benefits paid in 2019–20¹⁵, with Bupa and Medibank contributing 26.1% and 24.9% respectively.¹⁶ Benefits paid by health insurers are discussed further in section 2.3.

2.2 Premiums paid by consumers to health insurers

Australian consumers paid almost \$24.9 billion in private health insurance premiums in 2019–20, an increase of just over \$333 million, or 1.4% compared to the previous year.¹⁷ As Table 2 shows, this increase has been progressively getting smaller.

¹³ APRA, *Register of private health insurers*, 25 June 2020, viewed 18 November 2020, <https://www.apra.gov.au/register-of-private-health-insurers>.

¹⁴ APRA, *Operations of private health insurers annual report 2019–20*, 3 November 2020, viewed 18 November 2020, table 3, <https://www.apra.gov.au/operations-of-private-health-insurers-annual-report>.

¹⁵ The amount paid by an insurer to a policyholder to cover health care costs. Inclusive of state levies.

¹⁶ APRA, *Operations of private health insurers annual report 2019–20*, 3 November 2020, viewed 18 November 2020, table 3, <https://www.apra.gov.au/operations-of-private-health-insurers-annual-report>.

¹⁷ APRA, *Statistics: Quarterly private health insurance statistics June 2020*, 18 August 2020, viewed 19 November 2020, <https://www.apra.gov.au/sites/default/files/2020-08/Quarterly%20Private%20health%20insurance%20statistics%20June%202020.pdf>.

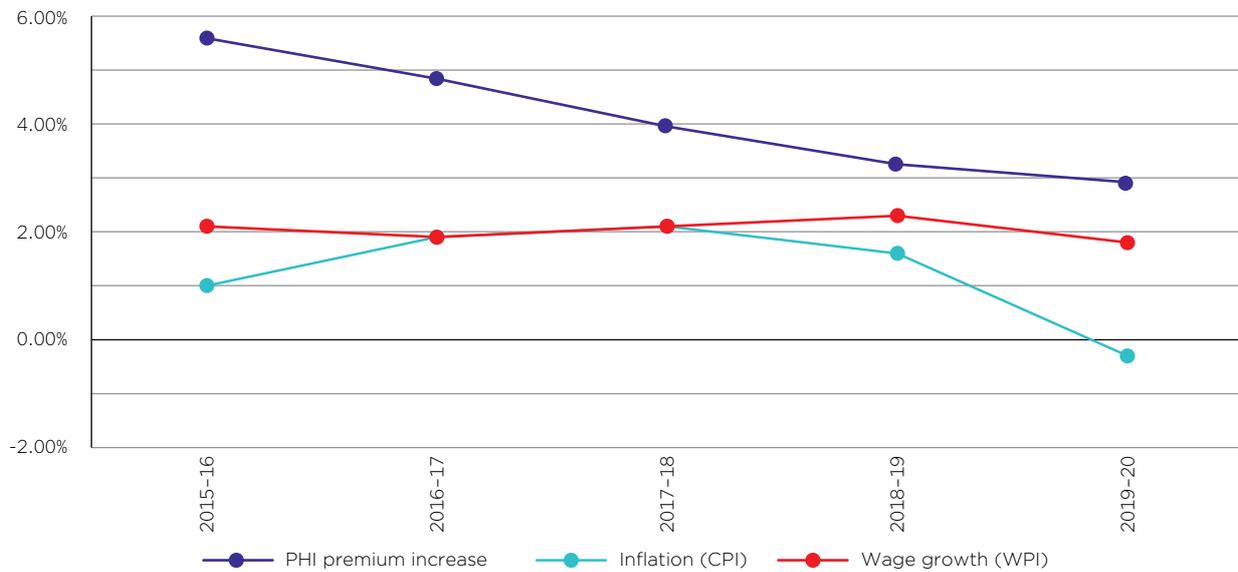
Table 2: Expenditure on private health insurance, per year, by dollar and percentage change, June 2018 to June 2020

	\$ paid (in '000)	\$ change from previous year (in '000)	% change from previous year
June 2018	23,899,157	832,755	3.6%
June 2019	24,561,694	662,537	2.8%
June 2020	24,895,120	333,426	1.4%

Source: APRA, *Statistics: Quarterly private health insurance statistics*, June 2018, 2019 and 2020.

Figure 2 shows average premium increases (on an industry weighted average basis), the inflation rate and the rate of growth in wages from 2015-16 to 2019-20.

Figure 2: Private health insurance premium increases, inflation and wage growth, 2015-16 to 2019-20



Source data: Department of Health, [Average annual premium price change by insurer](#); Australian Bureau of Statistics (ABS), 6401.0—*Consumer price index, Australia*, Jun 2016, 2017, 2018, 2019 and 2020; ABS, 6345.0—*Wage price index, Australia*, Jun 2016, 2017, 2018, 2019 and 2020.

While the average premium increase of 4.1% per year over the past five years has been higher than the average annual growth in the wage price index and the consumer price index (2.0% and 1.3% per year respectively) over the same period, the rate of the average yearly premium increases has been decreasing each year over the past five years, and was around 2.9% in 2019-20.

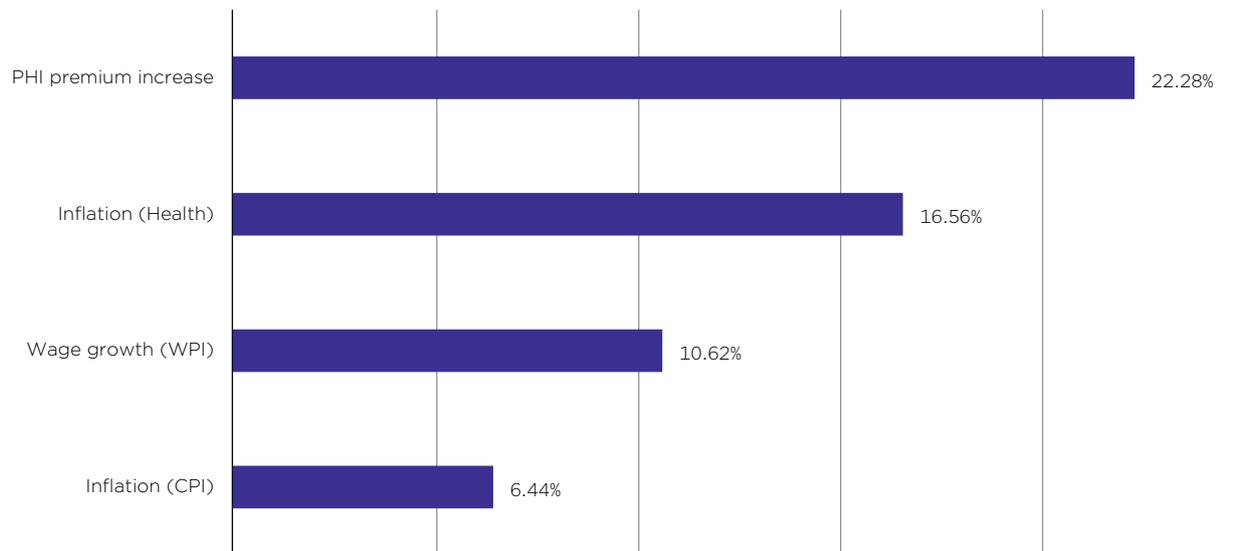
However, due to the coronavirus pandemic, many health insurance providers deferred their premium increases, which were scheduled for 1 April 2020, on some or all of their products. For example, all Private Healthcare Australia's health funds and most Members Health Fund Alliance members deferred the April 2020 premium increase for at least six months.¹⁸ Section 2.4 of this report explores insurers' responses to the COVID-19 pandemic in further detail.

18 Private Healthcare Australia, *Health funds Postpone 1 April Premium Increase*, Media release, 29 March 2020, <https://www.privatehealthcareaustralia.org.au/health-funds-postpone-1-april-premium-increase/>; Members Health Fund Alliance, *Australians trust Members Health funds over big name brands*, Media release, 10 September 2020, <https://membershealth.com.au/australians-trust-members-health-funds-over-big-name-brands/>.

Figure 3 shows the cumulative increase in average private health insurance premiums, the consumer price index, inflation in health prices and wage growth over the five years to 2019–20. The inflation in health prices figure is a component of the consumer price index, and is an all-encompassing measure, which includes healthcare prices such as private health insurance premiums, other hospital, dental and medical services, pharmaceutical products and therapeutic equipment.¹⁹

Figure 3 also shows that the cumulative growth in premium increases is higher than cumulative wage growth and inflation combined over the past five years.

Figure 3: Cumulative increase in average private health insurance premiums, inflation (CPI and health) and wage growth, 2015–16 to 2019–20



Source data: Department of Health, [Average premium increases by insurer by year](#); ABS, 6401.0—Consumer price index, Australia, Jun 2016, 2017, 2018, 2019 and 2020; ABS, 6345.0—Wage price index, Australia, Jun 2016, 2017, 2018, 2019 and 2020.

Developments that may help address the continuing pressure on premiums

Addendum to the 2020–2025 National Health Reform Agreement

In May 2020, the Commonwealth government and all state and territory governments signed a new public hospital funding Addendum, which amends the National Health Reform Agreement (NHRA) for 1 July 2020 to 30 June 2025.²⁰ The NHRA aims to help ensure the transparency, governance and financing of Australia’s public hospital system.²¹

Some argue the new agreement may help alleviate pressure on private health insurance premiums,²² because private patient elections are intended to be revenue neutral for the treating public hospital.²³ For example, Private Healthcare Australia stated that the new NHRA seeks to reduce the incentive for states and territories to ‘cost-shift’ by encouraging private patients to be admitted into public hospitals, which provides public hospitals with extra revenue from insurers in addition to the funding from

19 ABS, *Information paper: Consumer price index: Concepts, sources and methods Australia 2018*, 27 February 2019, viewed 17 November 2020, <https://www.abs.gov.au/ausstats/abs@.nsf/mf/6461.0>; ABS, 6401.0—Consumer price index June 2020, Australia, 29 July 2020, viewed 17 November 2020, table 7, <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/jun-2020>.

20 Department of Health, *2020–25 National Health Reform Agreement*, 15 October 2020, viewed on 10 November 2020, <https://www.health.gov.au/initiatives-and-programs/2020-25-national-health-reform-agreement-nhra>.

21 Ibid; the NHRA aims to improve health outcomes for Australians, by providing better coordinated and joined up care in the community, and ensuring the future sustainability of Australia’s health system

22 C LaFrenz, ‘Health funds back move to stop public hospitals “double dipping”’, *Australian Financial Review*, 8 June 2020, <https://www.afr.com/companies/healthcare-and-fitness/health-funds-back-move-to-stop-public-hospitals-double-dipping-20200604-p54zjo>.

23 AMA, *AMA Public Hospital Report Card 2020*, 1 October 2020, viewed 20 November 2020, p. 16, https://ama.com.au/sites/default/files/public-hospital-report-cards/AMA_Public_Hospital_Report_Card_2020.pdf.

Medicare and State and Territory governments.²⁴ Both Private Healthcare Australia and the Australian Private Hospitals Association have indicated that the reform may benefit health fund members through premium reductions.²⁵

However, private patients will retain the option to elect private patient treatment in a public hospital under the new NHRA, and the relevant methodology that will govern this aspect of the new agreement does not appear to have been finalised.²⁶

Insurers' delivery of short-stay models of hospital care

Certain vertically integrated insurers have recently invested in the short stay model of hospital care, which aims to reduce the time that patients spend in hospital after certain surgical procedures—and it is claimed this will help reduce pressure on insurance premiums.²⁷ For example, Medibank announced in August 2020 that as part of its acquisition of a 49% interest in East Sydney Private Hospital it would invest in helping scale the hospital's short stay model of care,²⁸ which it described as:

'...part of Medibank's broader strategy to support hospitals and doctors to enable a short stay model of care that reduces unnecessary time spent in the hospital and allows patients to recuperate in their own home with support from a multi-disciplinary care team.'²⁹

Medibank added that hospitals offering a short stay model of care provide:

'...a doctor-led alternative to traditional long hospital stays that can help alleviate pressure on the health system, health insurance premiums and eliminates medical out-of-pocket costs.'³⁰

However, certain specialist medical colleges have claimed that caution needs to be exercised to ensure patients' best interests are prioritised above the financial objectives of private health funds.³¹

On 6 October 2020, the Australian government announced that it would commence consultation with the sector about its proposal to make home and community based rehabilitation care more accessible through private health insurance—if that is a patient's preference and it is considered clinically appropriate.³² Chapter Four of this report provides further information about this policy initiative.

24 Private Healthcare Australia, *Budget submission 2020-21 - Revised version*, July 2020, p.10, <https://www.privatehealthcareaustralia.org.au/wp-content/uploads/202007-Private-Healthcare-Australia-Budget-Submission-2020-21-October-Budget-REDRAFT-1.pdf>.

25 Australian Private Hospitals Association, *New agreement brings fairness back to public hospitals*, Media release, 29 May 2020, http://www.apha.org.au/wp-content/uploads/2020/05/29052020_healthagreement_FINAL.doc.pdf; C LaFrenz, 'Health funds back move to stop public hospitals "double dipping"', *Australian Financial Review*, 8 June 2020, <https://www.afr.com/companies/healthcare-and-fitness/health-funds-back-move-to-stop-public-hospitals-double-dipping-20200604-p54zjo>.

26 AMA, *AMA Public Hospital Report Card 2020*, 1 October 2020, p. 16, https://ama.com.au/sites/default/files/public-hospital-report-cards/AMA_Public_Hospital_Report_Card_2020.pdf.

27 Private Healthcare Australia, *Pre-budget submission 2019-20 Improving the value and sustainability of Private Healthcare*, pp. 39 – 40, https://treasury.gov.au/sites/default/files/2019-03/private_healthcare_australia.pdf.

28 Medibank, *Medibank announces investment in East Sydney Private Hospital*, 11 August 2020, <https://www.medibank.com.au/livebetter/newsroom/post/medibank-announces-investment-in-east-sydney-private-hospital>.

29 Ibid.

30 Ibid.

31 Australian Orthopaedic Association, *Push for same day joint replacements needs a re-think*, Media release, November 2020, https://www.aoa.org.au/docs/default-source/advocacy/aoa-aeha-media-release_push-for-same-day-joint-replacements-needs-a-re-think_november-2020.pdf?sfvrsn=7620d804_6; Health Industry Hub, *Surgeons push back on same-day joint replacements promoted by private health insurers*, 9 November 2020, viewed 20 November 2020, <https://www.healthindustryhub.com.au/medical-technology-news-trends/surgeons-push-back-on-same-day-joint-replacements-promoted-by-private-health-insurers/>.

32 Department of Health, *Budget 2020-21: Private Health Insurance - expanding home and community based mental health and rehabilitation care*, Fact sheet, 6 October 2020, <https://www.health.gov.au/resources/collections/budget-2020-21-supporting-our-hospitals>.

Calls for an in-depth inquiry into Australia’s private health insurance sector

During and after the 2019–20 reporting period that is subject of this report, a number of industry observers cited the continuing pressure on premiums (and reduced numbers of Australians with insurance) and supported calls for an in-depth independent inquiry into the viability of Australia’s private health insurance sector. In particular, CHOICE,³³ the Consumers Health Forum,³⁴ the Grattan Institute³⁵ and an Executive Board Member of APRA³⁶ have all expressed support during the reporting period for an in-depth inquiry into Australia’s private health insurance sector.

On 6 October 2020, the government announced that it would fund external actuarial studies over 2020–21 and 2021–22 into both Lifetime Health Cover (which provides a financial incentive for people to take out hospital cover before the age of 31 years) and Risk Equalisation (which supports ‘community rating’ by sharing the cost of certain claims between insurers). The government indicated the reviews might highlight potential reforms to improve the value and effectiveness of Australia’s private health insurance system.³⁷ Further details regarding the proposed actuarial studies are in Chapter Four of this report.

2.3 Benefits paid by health insurers to consumers

During 2019–20, private health insurers’ hospital benefit payout per customer decreased by 0.6%, with a reduction of 6.4% for extras benefits.³⁸ The total amount of benefits paid for hospital treatment was over \$15.3 billion, and approximately \$4.96 billion for extras treatment.³⁹

Table 3: Key metrics relating to the benefits paid by health insurers to consumers, June 2019 to June 2020⁴⁰

	June 2019	June 2020	Change
Benefits: Hospital treatment (\$ millions)	\$15,439	\$15,303	-0.9%
Benefits: Extras treatment (\$ millions) ⁴¹	\$5,301	\$4,960	-6.4%
Hospital benefit per consumer (\$) ⁴²	\$1,375	\$1,367	-0.6%
Extras benefit per consumer (\$) ⁴³	\$432	\$404	-6.4%

Source: APRA, *Statistics: Quarterly private health insurance statistics*, June 2020.

33 CHOICE, *Together, we can make Australia’s health system fairer for everyone*, viewed 10 November 2020, <https://action.choice.com.au/page/59237/petition/1>.

34 Consumers Health Forum, *Private health insurance – more questions than answers*, Media release, 15 July 2019, <https://chf.org.au/media-releases/private-health-insurance-more-questions-answers>.

35 R Clun, “‘It’s a muddle’: Leading health economist calls for inquiry into private health insurance”, *Sydney Morning Herald*, 15 July 2019, <https://www.smh.com.au/business/consumer-affairs/it-s-a-muddle-leading-health-economist-calls-for-inquiry-into-private-health-insurance-20190712-p526qq.html>.

36 G Summerhayes, ‘Stable but serious’ (Speech delivered at the Members Health Directors Professional Development Program, Sydney, 4 February 2020), <https://www.apra.gov.au/news-and-publications/apra-member-geoff-summerhayes-speech-to-members-health-directors-professional>.

37 Department of Health, *Budget 2020-21: Private Health Insurance – actuarial studies of incentives*, 6 October 2020, viewed 20 November 2020, <https://www.health.gov.au/resources/collections/budget-2020-21-supporting-our-hospitals>.

38 APRA, *Statistics: Quarterly private health insurance statistics June 2020*, Sydney, 18 August 2020, viewed 19 November 2020, pp 7-8, <https://www.apra.gov.au/sites/default/files/2020-08/Quarterly%20Private%20health%20insurance%20statistics%20June%202020.pdf>.

39 Ibid, p. 4.

40 This table presents a selection of key metrics relating to the benefits paid by private health insurers. A full outline of all benefits paid to consumers by insurers can be found in APRA’s *Quarterly Private Health Insurance Statistics*.

41 Extras treatment, (General treatment – Ancillary) does not include Chronic Disease Management Plans.

42 In June 2019, the hospital benefit per consumer was precisely \$1,375.14, and in June 2020, the hospital benefit per consumer was precisely \$1,366.88.

43 In June 2019, the extras benefit per consumer was precisely \$432.04, and in June 2020, the extras benefit per consumer was precisely \$404.29.

The amount of hospital benefits paid by private health insurers decreased in 2019–20. Table 4 shows that in 2019–20, private health insurers paid consumers 0.9% less in hospital treatment benefits than in 2018–19, when hospital benefits paid by health insurers had actually increased by 2.5%. Table 5 indicates that the extras treatment benefits paid to consumers also decreased by 6.4% over the same period.

It is important to note that from late March 2020, government imposed restrictions in response to the COVID-19 pandemic limited non-urgent elective surgery and non-urgent 'extras' treatments (including most dental, optical and other health services). The precise manner and duration of these government restrictions varied between the States and Territories, with Victoria notably reimposing certain restrictions between June and November 2020.

While it is not possible to determine the amount of benefits that insurers would have paid to consumers in the absence of the COVID-19 pandemic, the temporary cessation of these health services necessarily meant that health funds were paying less claims to consumers for hospital and extras treatment benefits.

Both Private Healthcare Australia and Members Health Fund Alliance have cited annual data released by APRA in November 2020 to argue that health funds have either already returned any savings to consumers that were accumulated due to COVID-19, or are using the savings to fund the backlog of elective surgery.⁴⁴ Private Healthcare Australia and Members Health Fund Alliance have noted that insurers had already returned savings to consumers in a variety of ways, including by postponing premium increases and providing relief to members experiencing financial hardship (see section 2.4 for further detail).⁴⁵

Table 4: Hospital treatment benefits paid by health insurers to consumers, per year, by dollar and percentage change, June 2018 to June 2020

	\$ paid (in '000)	\$ change from previous year (in '000)	% change from previous year
June 2018	15,064	472	+3.2%
June 2019	15,439	375	+2.5%
June 2020	15,303	-136	-0.9%

Source: APRA, *Statistics: Quarterly private health insurance statistics*, June 2018, 2019 and 2020.

Table 5: Extras treatment benefits paid by health insurers to consumers, per year, by dollar and percentage change, June 2018 to June 2020

	\$ paid (in '000)	\$ change from previous year (in '000)	% change from previous year
June 2018	5,151	228	+4.6%
June 2019	5,301	150	+2.9%
June 2020	4,960	-341	-6.4%

Source: APRA, *Statistics: Quarterly private health insurance statistics*, June 2018, 2019 and 2020.

44 Private Healthcare Australia, *Health funds increase claims paid to members, despite the financial impact of COVID-19*, Media release, 3 November 2020. <https://www.privatehealthcareaustralia.org.au/wp-content/uploads/PHA-Media-Release-Health-funds-increase-claims-paid-to-members-despite-the-financial-impact-of-COVID-19-3Nov2020.pdf>; Members Health Fund Alliance, *Health Funds support their members through pandemic*, Media release, 19 August 2020, <https://membershealth.com.au/health-funds-support-their-members-through-pandemic/>.

45 Ibid.

ACCC enforcement action regarding benefit payments

In July 2020 the Federal Court released a significant decision regarding the payment of benefits to health fund members. The Federal Court's decision regarding Medibank is summarised in Box 1 below, with further information regarding this and other relevant ACCC enforcement actions in Chapter 4.

Box 1: The Federal Court's order regarding Medibank⁴⁶

Following ACCC enforcement action, the Federal Court ordered Medibank to pay \$5 million in penalties for making false representations to its policyholders about the benefits offered by their ahm health insurance policies, in breach of Australian Consumer Law.

Medibank falsely advised 849 members with ahm's "lite" or "boost" policies who had lodged claims or enquired about their coverage, that they were not covered for joint investigations or joint reconstruction procedures, when these policies in fact entitled them to coverage for these procedures. At least 1,396 enquiries or claims were incorrectly rejected.

Medibank admitted this breach occurred because it failed to include 186 joint investigation and reconstruction services in its claiming system for the ahm "lite" policy between February 2013 and July 2018, and failed to include 26 such services in its system for the "boost" policy between February 2017 and July 2018.

Despite Medibank identifying in June 2017 that some service codes had not been included, Medibank rejected 370 enquiries or claims over another 13 months, until the conduct ceased in July 2018.

2.4 Insurer responses to the COVID-19 pandemic

On 23 March 2020, the federal lockdown was announced and restrictions on elective surgery were imposed nationwide for the period 26 March–28 April 2020.⁴⁷ Access to extras treatments, such as dentists, optometrists and physiotherapists, were also significantly limited at around the same time.

While most states and territories started to incrementally resume non-urgent elective surgery (and extras treatments) around 28 April 2020, these restrictions were reimposed in Victoria on 28 July, and they did not start being unwound until mid-September 2020. Victoria only returned to 100% capacity for non-urgent elective surgery—across all its hospitals—on 23 November 2020.⁴⁸

A survey of 729 people conducted by the Consumers Health Forum of Australia and the Continuity of Care Collaboration found that the COVID-19 pandemic had a significant impact on consumers' access to healthcare. According to the survey, which was conducted between 5 May and 2 June 2020, 52% of respondents delayed or avoided a medical appointment in the previous three months, and 30% of respondents reported that the health services they usually used were closed.⁴⁹

46 ACCC, *Medibank to pay \$5 million in penalties for misrepresentations to members about benefits*, Media release, 16 July 2020, <https://www.accc.gov.au/media-release/medibank-to-pay-5-million-in-penalties-for-misrepresentations-to-members-about-benefits>.

47 APRA, *Statistics: Quarterly private health insurance statistics - highlights June 2020*, 18 August 2020, viewed 19 November 2020, p. 3, <https://www.apra.gov.au/sites/default/files/2020-08/Private%20health%20insurance%20quarterly%20statistics%20highlights%20June%202020.pdf>.

48 Victorian Department of Health and Human Services, *Health services and professionals - coronavirus (COVID-19) - Key update: elective surgery*, viewed 6 November 2020, <https://www.dhhs.vic.gov.au/health-services-and-professionals-coronavirus-covid-19>.

49 Consumers Health Forum of Australia, *Consumer Survey: Access to healthcare during COVID-19*, viewed 19 November 2020, <https://chf.org.au/sites/default/files/consumer-survey-access-to-healthcare-infographic.pdf>

Insurers' key responses to the pandemic

In response to COVID-19, most Australian insurers deferred their scheduled April 2020 premium increases for six months, or until 1 October 2020.⁵⁰ However, some insurers chose to adopt different approaches, for example:

- both HBF⁵¹ and Teachers Union Health⁵² cancelled their scheduled April 2020 premium increase, and committed to freezing their existing premiums until 1 April 2021
- both OneMedifund⁵³ and health.com.au⁵⁴ committed to deferring their scheduled April 2020 premium increases until 1 January 2021
- Police Health Limited (also incorporating Emergency Services Health) proceeded with its scheduled premium increase on 1 April 2020, while also providing its members with a 4% discount until August 2020.⁵⁵

In addition to delaying or cancelling their scheduled April 2020 premium increases, most insurers initially implemented several other initiatives in response to the pandemic, including:

- offering financial relief in the form of policy suspensions (and in some cases limited premium waivers) to members experiencing financial hardship⁵⁶
- expanding hospital cover to include COVID-19 related admission, regardless of members' level of cover⁵⁷
- expanding extras cover to include certain services provided via telehealth, such as psychology⁵⁸
- in at least two instances, committing to either rolling over extras cover claim limits into 2021, or refunding unclaimed extras premiums, to provide relief for members who have been limited in their ability to access benefits under their policies due to the impact of COVID-19 restrictions on service providers.⁵⁹

However, in July 2020 CHOICE expressed concern that health funds' hardship policies, which allow policyholders to have their premiums waived or suspended if they suffer financial hardship (including the loss of their job or income), were insufficiently clear or accessible.⁶⁰ In particular, CHOICE stated that before policyholders can access this financial relief, consumers first need to know the options exist, and

50 Private Healthcare Australia, *Health funds postpone 1 April 2020 premium increase*, Media release, 29 March 2020, <https://www.privatehealthcareaustralia.org.au/health-funds-postpone-1-april-premium-increase/>; Members Health Fund Alliance, *Australians trust Members Health funds over big name brands*, Media release, 10 September 2020, <https://membershealth.com.au/australians-trust-members-health-funds-over-big-name-brands/>.

51 HBF, *HBF announces COVID-19 financial relief measures*, Media release, 7 April 2020, <https://www.hbf.com.au/media-releases/hbf-announces-covid-19-financial-relief-measures>.

52 Teachers Union Health, *There will be no premium rise for TUH members in October*, Media release, 11 September 2020, <https://tuh.com.au/news/no-premium-rise-this-year>.

53 onemedifund, *onemedifund COVID-19 & Financial Relief Update*, viewed 13 November 2020, <https://www.onemedifund.com.au/alerts/onemedifund-covid-19-update/>.

54 health.com.au, *Annual premium review*, viewed 13 November 2020, <https://health.com.au/help/premium-review/annual-premium-review>; GMHBA Limited acquired health.com.au in July 2015.

55 The ACCC understands that Police Health and Emergency Services Health directly advised their fund members about this change in writing. See also: CHOICE, *Submission to Senate Select Committee on COVID-19*, 28 May 2020, no. 234, p. 2, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Submissions; Police Health, *FAQ: Premium increase*, viewed 12 November 2020, <https://policehealth.com.au/faq-premium-increase>; Emergency Services Health, *FAQs - Premium increases*, viewed 12 November 2020, <https://eshealth.com.au/faqs>.

56 Private Healthcare Australia, *Health funds postpone 1 April 2020 premium increase*, Media release, 29 March 2020, <https://www.privatehealthcareaustralia.org.au/health-funds-postpone-1-april-premium-increase/>; Members Health Fund Alliance, *Australians trust Members Health funds over big name brands*, Media release, 10 September 2020, <https://membershealth.com.au/australians-trust-members-health-funds-over-big-name-brands/>.

57 Ibid.

58 Ibid.

59 ahm, *Extras annual limits roll over*, viewed 14 November 2020, <https://help.ahm.com.au/hc/en-us/articles/360001549235-Extras-annual-limits-rollover>; AIA, *We are protecting the value of your clients' extras cover*, viewed 12 November 2020, <https://www.aia.com.au/en/adviser/business-growth-hub/adviser-news/protecting-your-clients-extras-cover.html>.

60 S Jeong, *Health funds' responses to coronavirus: the good, the bad, and the unclear*, 2 July 2020, viewed 12 November 2020, <https://www.choice.com.au/money/insurance/health/articles/health-funds-responses-to-coronavirus-the-good-the-bad-and-the-unclear>.

second, be in a position to invest the requisite time and effort contacting the insurer (generally over the phone or online), during what is often already a challenging time in people's lives.⁶¹

More recently, many insurers have provided further clarification about their responses to COVID-19. In addition to deferring their scheduled April 2020 premium increase until October 2020 (or cancelling it entirely in the case of HBF), specific initiatives offered by the 'big five' insurers include the following:

- Both HBF and HCF have committed to providing some form of complimentary cover to eligible policyholders experiencing financial hardship for up to:
 - nine months for fund members that are in receipt of the JobSeeker payment and have been a member for over three years, or up to six months for fund members that have been a member for more than one month (HBF)⁶²
 - six months for fund members that are in need of 'involuntary unemployment assistance' (HCF).⁶³
- Medibank has more recently offered eligible fund members:
 - a 50% premium reduction for a period of six months for fund members receiving government assistance (such as JobSeeker and JobKeeper)⁶⁴
 - a 10% premium reduction for a period of three months for policyholders living in areas with a declared state of disaster due to COVID-19 (i.e. Victoria), and for members who not otherwise qualify for its temporary 50% premium reduction.⁶⁵
- Bupa⁶⁶ and NIB⁶⁷ are offering to defer their annual premium increase until 1 April 2021 for eligible policyholders receiving JobKeeper or JobSeeker payments.

Did insurers financially benefit from the pandemic?

Due to COVID-19 restrictions, many policyholders were unable to access services that would ordinarily be covered by their insurance policy. However, despite the range of insurer responses outlined above, most insurers continued to charge the same level of private health insurance premiums, and in October 2020, most increased their premiums. The Australia Institute noted that restrictions on non-urgent elective surgery and other policies to combat COVID-19 meant that private health insurers would not need to make payments to cover the services usually provided to their policyholders.⁶⁸ The Australia Institute stated that insurers should pass on these savings to households.⁶⁹

Similarly, CHOICE argued that private health insurers were making substantial savings in 2020 as fewer people claimed on insurance, and cited APRA's quarterly statistics for June 2020 to point out that private health insurers had spent approximately \$500 million less on consumers' healthcare during the 'first months of COVID-19'.⁷⁰ CHOICE called for any excess profits earned by insurers as a result of the pandemic to be returned to consumers, and additionally recommended that policyholders consider dropping extras cover, or dropping or downgrading hospital cover.⁷¹

61 Ibid.

62 HBF, *COVID-19 member updates*, viewed 19 November 2020, <https://www.hbf.com.au/members/covid-19>.

63 HCF, *Involuntary Unemployment Assistance*, viewed 19 November 2020, <https://www.hcf.com.au/insurance/unemployment-assistance>.

64 Medibank, *Financial hardship temporary premium reduction*, viewed 19 November 2020, <https://www.medibank.com.au/health-insurance/info/coronavirus-update/financial-hardship-policy/>.

65 Medibank, *State of disaster temporary premium reduction*, viewed 19 November 2020, <https://www.medibank.com.au/health-insurance/info/coronavirus-update/state-of-disaster-reduction/>.

66 Bupa, *Are you worried about your financial situation?*, viewed 19 November 2020, <https://www.bupa.com.au/health-insurance/covid-19/financial-hardship>.

67 NIB, *How do I suspend or resume my policy*, viewed 19 November 2020, <https://www.nib.com.au/health-information/member-services/how-do-i-suspend-or-resume-my-policy>.

68 The Australia Institute, *Private eyes..hips, etc. Health insurance benefits during the COVID crisis*, April 2020, viewed 20 November 2020, <https://www.tai.org.au/sites/default/files/P910%20Private%20eyes%E2%80%A6%2C%20hips%2C%20etc%20%5BWEB%5D.pdf>.

69 The Australia Institute, *Private health funds to reap \$5 billion pandemic windfall*, Media release, 6 April 2020, <https://www.tai.org.au/content/private-health-funds-reap-5-billion-pandemic-windfall>.

70 CHOICE, *CHOICE response to APRA Quarterly Health Insurance Statistics (June 2020)*, Media release, 18 August 2020, <https://www.choice.com.au/about-us/media-releases/2020/august/choice-response-to-apra-quarterly-health-insurance-statistics-june-2020>.

71 U Mihm, *Should you keep or drop your health insurance during the COVID-19 crisis?*, 22 July 2020, viewed 20 November 2020, <https://www.choice.com.au/money/insurance/health/articles/keep-or-drop-health-insurance-covid-19>.

The Medical Technology Association of Australia has suggested that insurers generated ‘gross mega-COVID-profits’ as a result of the pandemic.⁷²

Both Private Healthcare Australia and Members Health Fund Alliance acknowledged that government measures to contain and respond to the spread of COVID-19 had an impact on hospital and extras treatment episodes,⁷³ with Private Healthcare Australia stating that overall benefits paid for claims in 2019–20 were down by \$497 million on the previous year.⁷⁴ However, both Private Healthcare Australia and Members Health Fund Alliance denied that insurers were seeking to profit from the temporary suspension of certain elective surgery and community allied health care⁷⁵, and have stated that their health funds will return any profits gained from the pandemic to their policyholders.⁷⁶

For example, on 3 November 2020, Private Healthcare Australia stated that funds had already returned over \$500 million to members, including more than \$150 million in hardship provisions for members—and also through postponing the April 2020 premium increase for at least six months (or cancelling the increase altogether), or providing further targeted relief for members on Jobkeeper and Jobseeker.⁷⁷ Private Healthcare Australia also claimed that its internal data indicated policyholders were back to using their insurance for extras treatments at close to pre COVID-19 levels (e.g. dental rebates were reportedly at 88% compared to the year to date in 2019, and optical services were reportedly at 89% compared to 2019).⁷⁸

Similarly, the Members Health Fund Alliance reported on 6 November 2020 that since COVID-19 reached Australia, its funds (which include several insurers that are also members of Private Healthcare Australia), had committed more than \$250 million towards customer support and hardship measures.⁷⁹ Those measures were reported to include premium deferrals, waivers, discounts or suspensions, expanded benefits coverage for COVID-19 related treatments and increased telehealth services.

Private Healthcare Australia additionally cited annual data released by APRA in November 2020, and stated:

‘APRA’s annual data shows the impact COVID-19 has had on savings were modest and, in fact, health funds have either returned any savings to consumers already or are using them to fund the backlog of elective surgery. Surgeries were postponed, not cancelled and APRA made it clear that health funds must retain enough capital to fund the backlog of elective surgeries, a program which is now well underway in all States and Territories’⁸⁰

-
- 72 Medical Technology Association of Australia, *Private health insurers increase premiums to support profit*, Media release, 2 October 2020, <https://www.mtaa.org.au/news/private-health-insurers-increase-premiums-support-profit>.
- 73 Members Health Fund Alliance, *Health Funds support their members through pandemic*, Media release, 19 August 2020, <https://membershealth.com.au/health-funds-support-their-members-through-pandemic/>; Private Healthcare Australia, *Australian Health Funds pay more than \$21 b in benefits despite significant COVID-19 headwinds*, Media release, 18 August 2020, <https://www.privatehealthcareaustralia.org.au/australian-health-funds-pay-more-than-21b-in-benefits-despite-significant-covid-19-headwinds/>.
- 74 Private Healthcare Australia, *Australian Health Funds pay more than \$21 b in benefits despite significant COVID-19 headwinds*, Media release, 18 August 2020, <https://www.privatehealthcareaustralia.org.au/australian-health-funds-pay-more-than-21b-in-benefits-despite-significant-covid-19-headwinds/>.
- 75 Private Healthcare Australia, *Private health insurance during COVID-19*, viewed 19 November 2020, <https://www.privatehealthcareaustralia.org.au/private-health-insurance-during-covid-19/#phichanges>; Members Health Fund Alliance, *Health Funds support their members through pandemic*, Media release, 19 August 2020, <https://membershealth.com.au/health-funds-support-their-members-through-pandemic/>.
- 76 Private Healthcare Australia, *Health funds committed to providing financial relief for members impacted by COVID-19*, Media release, 26 March 2020, <https://www.privatehealthcareaustralia.org.au/health-funds-committed-to-providing-financial-relief-for-members-impacted-by-covid-19/>; Members Health Fund Alliance, *COVID surpluses to benefit policyholders of not-for-profit and member owned health funds*, Media release, 15 May 2020, <https://membershealth.com.au/covid-surpluses-to-benefit-policyholders-of-not-for-profit-and-member-owned-health-funds/>.
- 77 Private Healthcare Australia, *Health funds increase claims paid to members, despite the financial impact of COVID-19*, Media release, 3 November 2020. <https://www.privatehealthcareaustralia.org.au/wp-content/uploads/PHA-Media-Release-Health-funds-increase-claims-paid-to-members-despite-the-financial-impact-of-COVID-19-3Nov2020.pdf>.
- 78 Ibid.
- 79 Members Health Fund Alliance, *APRA report confirms Members Health funds defy industry trends*, Media release, 6 November 2020, <https://membershealth.com.au/apra-report-confirms-members-health-funds-defy-industry-trends/>.
- 80 Private Healthcare Australia, *Health funds increase claims paid to members, despite the financial impact of COVID-19*, Media release, 3 November 2020. <https://www.privatehealthcareaustralia.org.au/wp-content/uploads/PHA-Media-Release-Health-funds-increase-claims-paid-to-members-despite-the-financial-impact-of-COVID-19-3Nov2020.pdf>.

For its part, APRA has stated that:

‘In the private health insurance industry, APRA has been engaging with insurers to understand the impact of the Government’s suspension of elective surgery, especially as the end of the financial year approaches. APRA supervisors have also increased the level and frequency of engagement with insurers across all business lines in relation to claims patterns and the value of their assets.’⁸¹

In August 2020, APRA reported that deferrals of procedures that resulted from the COVID-19 restrictions were expected to occur ‘in the next 12 months’, and indicated that it had provided interpretative capital and prudential reporting guidance to insurers on the treatment of liabilities for deferred claims.⁸²

However, while insurers have highlighted that policyholders are able to avoid public hospital waiting lists and obtain elective surgery ‘as quickly as possible’,⁸³ it remains unclear how long it will actually take private hospitals to clear their own build-up of private patient episodes that were deferred due to surgical restrictions.⁸⁴ In particular, the Australian Private Hospitals Association reported that more than 230,000 private patient episodes were put on hold in the June quarter of 2020 (i.e. on top of deferred public patient care),⁸⁵ and it has also been reported that private hospitals in Victoria have been ‘busy clearing their own backlogs’ of non-urgent elective surgery.⁸⁶

The Minister for Health will have an opportunity to consider the following matters when assessing each health fund’s application to change premiums from April 2021:

- information on projected future benefit payments, including from claims deferred as a result of the COVID-19 pandemic
- the reasonableness of the proposed treatment of any funding set aside for deferred medical procedures.

The Department of Health will also continue to monitor these matters throughout 2021, and advise the Minister for Health as appropriate.

In addition, the ACCC expects insurers to uphold public commitments to return profits gained from COVID-19 restrictions to policyholders, including through the provision of hardship measures and the timely discharge of any accumulated demand for non-urgent elective surgery. In preparing the next report to the Senate for the 2020–21 reporting period, the ACCC proposes to review the actions taken by insurers in this regard.

81 APRA, ‘COVID-19: How APRA prepared for and has responded to the coronavirus crisis’, *APRA Insight – Issue Two 2020*, 27 May 2020, viewed 20 November 2020, <https://www.apra.gov.au/covid-19-how-apra-prepared-for-and-has-responded-to-coronavirus-crisis>.

82 APRA, *Statistics: Quarterly private health insurance statistics - highlights June 2020*, 18 August 2020, viewed 20 November 2020, p. 3. <https://www.apra.gov.au/sites/default/files/2020-08/Private%20health%20insurance%20quarterly%20statistics%20highlights%20June%202020.pdf>.

83 Members Health Fund Alliance, *Public wait list blow-out highlights advantages of private health*, Media release, 5 October 2020, <https://membershealth.com.au/public-wait-list-blow-out-highlights-advantages-of-private-health/>.

84 Australian Private Hospitals Association, *Private health insurance affordability issue: new APRA data*, Media release, 18 August 2020, http://www.apha.org.au/wp-content/uploads/2020/08/18082020_apra_FINAL.pdf.

85 Ibid.

86 Health Times, *How to clear Victoria’s backlog of elective surgeries after a 6-month slowdown?*, 18 September 2020, viewed 12 November 2020, <https://healthtimes.com.au/hub/surgical/62/news/ht1/how-to-clear-victorias-backlog-of-elective-surgeries-after-a-6month-slowdown/5312/>.

2.5 Consumer responses to private health insurance costs

Consumer research during and after the reporting period indicated that private health insurance is a key financial concern for households and that the cost of insurance is a significant reason why consumers drop their cover.

In March 2020, CHOICE reported that respondents to its Consumer Pulse survey, which was conducted *before* COVID-19 restrictions were imposed, nominated private health insurance as their top household cost concern, with 80% of respondents identifying the cost of private health insurance as a concern, beating fuel (78%) and electricity (74%).⁸⁷

Private Healthcare Australia has also acknowledged that joining, lapsing or downgrading private health insurance is driven primarily by financial considerations, as consumers weigh the benefits of private health against the value of the public system, as well as other goods or services they could spend their money on.⁸⁸ Private Healthcare Australia noted that:

‘The affordability of healthcare has been reduced by years of rising premiums, increasing (and unexpected) out-of-pocket costs and the decline in the government rebate. As well, slow wage growth and increasing housing, energy, fuel and education costs have added to the pressure.’⁸⁹

In August 2020, APRA reported that the private health industry in 2019–20 had continued to face the challenge of falling membership among younger people and growing membership in older age groups.⁹⁰ Figure 4 shows the change in the number of people with hospital policies by age group (starting with 15–19 year olds) over the past five years.

In particular, it shows a decline over the past year of over 20,000 people with hospital policies in each of the 25–29 and 30–34 age groups (representing a decline of 4.6% and 3.2% respectively), with smaller declines of up to 2.2% in each age group from 40–44 to 55–59. Conversely, over the same period the number of people with hospital policies in each of the 70–74, 75–79 and 80+ age groups increased by 3.9%, 6.1% and 4.7% respectively. That said, while those aged 20–24 and 25–29 have fewer policies than most older groups, including those aged 70–74, there are fewer people in the 75–79 and 80+ age groups than there are in most of the younger categories.

Several observers have asserted that the overall decline in the number of people with hospital policies in 2019–20 was due, at least in part, to the economic slowdown associated with COVID-19.⁹¹ However, some observers have also argued that that the pandemic reminded Australians of the ‘...quality of Medicare and our hospital system’, which contributed to people questioning the value of continuing to pay for private health insurance.⁹² While it is difficult to determine the relative impact of various factors that may have reduced the number of people with hospital policies in 2019–20, there is little uncertainty about the continued downward trend, particularly among younger age groups.

87 CHOICE, ‘Time running out to avoid insurance rip-offs’: CHOICE, Media release, 10 March 2020, <https://www.choice.com.au/about-us/media-releases/2020/march/time-running-out-to-avoid-health-insurance-rip-offs-choice>.

88 Private Healthcare Australia, *Budget submission 2020–21 – Revised version*, July 2020, viewed 20 November 2020, p.11, <https://www.privatehealthcareaustralia.org.au/wp-content/uploads/202007-Private-Healthcare-Australia-Budget-Submission-2020-21-October-Budget-REDRAFT-1.pdf>.

89 Ibid.

90 PRA, *Quarterly private health insurance statistics – highlights*, June 2020, 18 August 2020, viewed 20 November 2020, p. 4, <https://www.apra.gov.au/sites/default/files/2020-08/Private%20health%20insurance%20quarterly%20statistics%20highlights%20June%202020.pdf>.

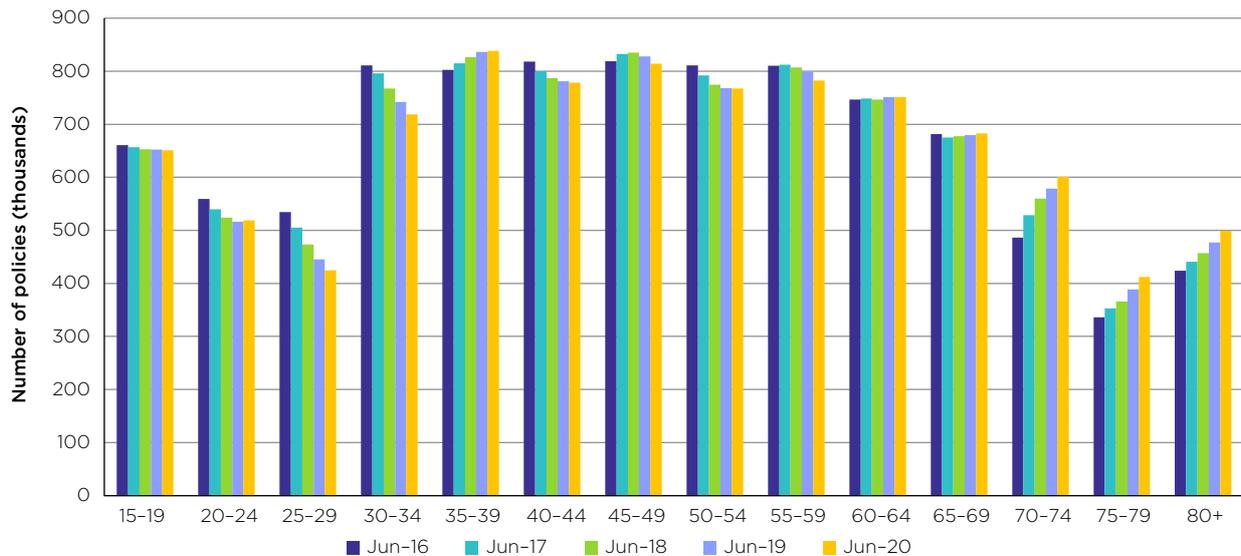
91 Private Healthcare Australia, *Budget submission 2020–21 – Revised version* July 2020, viewed 20 November 2020, p.11, <https://www.privatehealthcareaustralia.org.au/wp-content/uploads/202007-Private-Healthcare-Australia-Budget-Submission-2020-21-October-Budget-REDRAFT-1.pdf>; S Jeong, *Health funds responses to coronavirus: the good, the bad, and the unclear*, 2 July 2020, viewed 20 November 2020, <https://www.choice.com.au/money/insurance/health/articles/health-funds-responses-to-coronavirus-the-good-the-bad-and-the-unclear>.

92 CHOICE, *CHOICE response to APRA Quarterly Health Insurance Statistics (June 2020)*, Media release, 18 August 2020, <https://www.choice.com.au/about-us/media-releases/2020/august/choice-response-to-apra-quarterly-health-insurance-statistics-june-2020>.

Over the past five years, the number of policies held by 20 to 24 year olds has declined by 7.2% (40,373) and the number of policies held by 25 to 29 year olds has declined by 20.5% (109,365). The number of policies held by 30 to 34 year olds is significantly higher than for 25 to 29 year olds, which may reflect such consumers taking up private health insurance to avoid incurring the Lifetime Health Cover loading. However, the number of policies held by 30 to 34 year olds has nonetheless declined by 11.4% (92,605) in the past five years.

Conversely, the number of policies held by 35 to 39 year olds has seen a modest 4.5% increase over the past five years (increasing by 35,671). More significantly, over the same period the number of policies held by people aged 70–74, 75–79 and 80+ has increased by 23.6% (114,555), 22.7% (76,375) and 17.8% (75,533) respectively, while noting there are fewer people in those age categories.

Figure 4: Hospital cover, by age group, June 2016 to June 2020



Source data: APRA, *Statistics: Private health insurance membership trends June 2020*.

A report released by the Grattan Institute in December 2019 noted that increasing premiums had contributed to younger people opting out of private insurance, and a higher proportion of older consumers remaining in the private health insurance system.⁹³ Similarly, the Australian Medical Association (AMA) noted that younger people continue to drop their private hospital insurance, while people over 65 years are taking it up in increasing numbers, and stated:⁹⁴

‘The greater the mix of older Australians in the insured pool, the greater the claims and the greater the premiums. As premiums increase, they price out of the market those least able to afford it—including large numbers of younger Australians, and families.’⁹⁵

Other consumers are choosing to downgrade their health insurance coverage, rather than opting out altogether. This may include choosing policies with many exclusions, as explored further in section 2.6 below.

93 S Duckett and M Cowgill, *Saving private health 2: Making private health insurance viable*, Grattan Institute, 3 December 2019, viewed 20 November 2020, <https://grattan.edu.au/report/saving-private-health-2/>. ‘Community rating’ refers to the regulatory system that requires health insurers to charge all Australian consumers the same premium for the same product, provide cover to anybody who seeks it, and not charge different premiums to individual consumers based on their past or likely future health, claims history, age, pre-existing conditions, gender, race or lifestyle.

94 AMA, *AMA Private health insurance report card 2020*, 26 September 2020, viewed 20 November 2020, p.1, <https://ama.com.au/articles/ama-private-health-insurance-report-card-2020>.

95 Ibid.

2.6 Policy exclusions and excesses

Exclusionary policies

Exclusions and restrictions⁹⁶

Some health insurance policies provide full cover for the costs of most hospital admissions, apart from any applicable **excess** or **co-payment** that the policyholder is required to pay.

Other policies restrict or exclude benefits for some treatments, in return for offering lower premiums.

If a policy has **exclusions** for particular conditions, the policyholder is not covered at all for treatment as a private patient in a public or private hospital for those conditions. The insurer will not pay any benefits towards a policyholder's hospital and medical costs for such treatment.

If a policy has **restrictions** for particular conditions, the policyholder will be covered for treatment for those conditions, but only to a very limited extent, and the policyholder is still likely to face considerable out-of-pocket costs for such treatment.

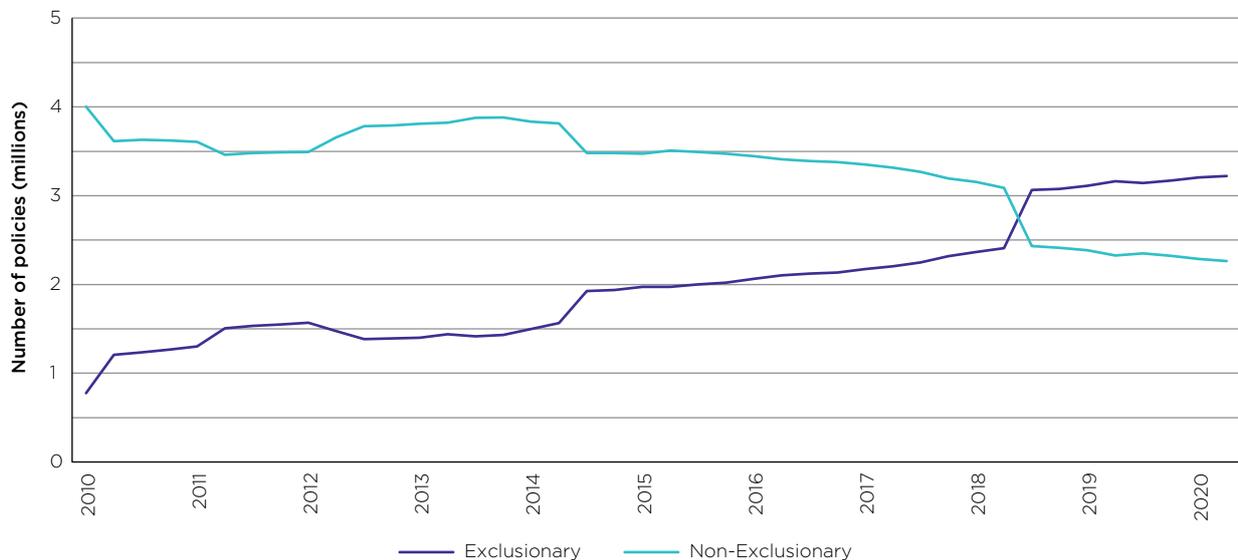
Table 6 shows that from June 2019 to June 2020, the proportion of hospital policies held with exclusions increased slightly. This is the second year in a row where exclusionary policies outnumber non-exclusionary ones.

Table 6: Hospital policies with exclusions, by percentage, June 2016 to June 2020

	June 2016	June 2017	June 2018	June 2019	June 2020
% of policies with exclusions	38.1%	39.9%	43.8%	57.6%	58.7%

Source: APRA, *Statistics: Private health insurance membership and benefits June 2020*.

Figure 5: Change in hospital exclusionary and non-exclusionary policies, June 2010 to June 2020



Source data: APRA, *Statistics: Private health insurance membership and benefits June 2020*.

⁹⁶ Commonwealth Ombudsman, *Policy exclusions and restrictions*, viewed 20 November 2020, <https://www.ombudsman.gov.au/publications/brochures-and-fact-sheets/factsheets/all-fact-sheets/phio/policy-exclusions-and-restrictions>.

The number of exclusionary policies held increased by around 61,000 (or 1.9%) with a similar reduction of just over 63,700 non-exclusionary policies (or 2.7%) during the same period.⁹⁷ This continues a trend seen in previous years with Australians substituting non-exclusionary for exclusionary policies.

Excesses

Excesses and co-payments⁹⁸

Most insurers will offer policyholders the option of nominating an ‘excess’ or ‘co-payment’ on a hospital policy in return for reduced membership premiums.

An **excess** is a lump sum the policyholder pays towards their hospital admission before the health fund will pay its benefits.

A **co-payment** is an amount the policyholder must pay each time the health insurer pays hospital benefits for them. Normally a co-payment is payable for each day of hospitalisation up to a maximum annual amount or per admission amount.

Table 7 shows that almost 86% of hospital policies have excesses and co-payments, a percentage that has increased by around 1% each year since June 2016.

Table 7: Hospital policies with excesses and co-payments, by percentage, June 2016 to June 2020

	June 2016	June 2017	June 2018	June 2019	June 2020
% of policies with excesses & co-payments	81.9%	82.9%	83.7%	84.8%	85.8%

Source: APRA, *Statistics: Private health insurance membership and benefits June 2020*.

2.7 Out-of-pocket (gap) costs

An out-of-pocket or ‘gap’ payment is the amount a consumer pays either for medical or hospital charges, over and above what they receive from the Australian government’s Medicare scheme or their private health insurer.

Types of gap arrangements

Typically, health insurers enter into contractual arrangements with selected health care service providers, in part, to minimise the out-of-pocket expenses incurred by members. Insurers negotiate set fees and other terms with those providers in exchange for the right to participate in their ‘preferred provider’ networks or ‘no gap’ and ‘known gap’ schemes.

In the case of a **no gap** arrangement, the participating health care service provider agrees to charge a certain amount for services and the health insurer will fully cover the cost of the relevant medical procedure performed by the participating provider.

In the case of a **known gap** arrangement, the participating provider can charge an amount beyond that which the health insurer will cover, but it is restricted to a capped maximum set by the health insurer.

While most in-hospital services are delivered with no gap payments required from patients, Figure 6 shows that this rate has varied in recent years, from a low of less than 86% of services not requiring a gap payment in December 2016, to the current high of 91% in June 2020.

97 APRA, *Statistics: Private health insurance membership and benefits June 2020*, 18 August 2020, viewed 20 November 2020, <https://www.apra.gov.au/sites/default/files/2020-08/Private%20health%20insurance%20membership%20and%20benefits%20June%202020.xlsx>.

98 Commonwealth Ombudsman, *Choosing a health insurance policy*, viewed 20 November 2020, <https://www.ombudsman.gov.au/publications/brochures-and-fact-sheets/factsheets/all-fact-sheets/phio/choosing-a-health-insurance-policy>.

Figure 6: Proportion of in-hospital services with no gap, June 2016 to June 2020



Source data: APRA, *Statistics: Private health insurance medical gap June 2020*.

From June 2019 to June 2020, the average gap expense incurred by a consumer for hospital treatment was \$289.75, a decrease of 7.9% from the previous year, as shown in table 8. Average gap payments for extras treatment increased by 2.1% to \$50.25 over the same period.⁹⁹

Table 8 indicates that over the past five years from June 2016 to June 2020, the average gap expense for hospital treatment decreased by 3.9%, and increased by 7.4% for extras treatments.

Table 8: Average gap expense incurred by consumers (hospital and extras treatments), June quarter 2016 to June quarter 2020

	Hospital treatment	Extras treatment
June 2016	\$301.39	\$46.77
June 2017	\$298.92	\$46.19
June 2018	\$308.73	\$47.38
June 2019	\$314.51	\$49.20
June 2020	\$289.75	\$50.25

Source: APRA, *Statistics: Quarterly private health insurance statistics*, June 2017, 2018, 2019 and 2020

A YouGov survey from late 2019 found that, after the cost of premiums and a perceived lack of value for money, out-of-pocket costs were a leading reason given by respondents for no longer holding private health insurance.¹⁰⁰ As mentioned previously, Private Healthcare Australia has also acknowledged that consumers' decisions to join, lapse or downgrade private health insurance are driven primarily by financial considerations—including out-of-pocket costs.¹⁰¹

99 APRA, *Statistics: Quarterly private health insurance statistics June 2020*, Sydney, 18 August 2020, viewed 20 November 2020, p. 11, <https://www.apra.gov.au/sites/default/files/2020-08/Quarterly%20Private%20health%20insurance%20statistics%20June%202020.pdf>.

100 YouGov Galaxy poll conducted between 28 November 2019 and 1 December 2019 for the MTAA: *2 million Aussies dump private health cover as prices soar*, Media release, MTAA, North Sydney, 30 December 2019, viewed 20 November 2020, <http://journalists.medianet.com.au/DisplayAttachment.aspx?j=926201&s=2&k=1913739>.

101 Private Healthcare Australia, *Budget submission 2020-21 - Revised version*, July 2020, viewed 20 November 2020, p.11, <https://www.privatehealthcareaustralia.org.au/wp-content/uploads/202007-Private-Healthcare-Australia-Budget-Submission-2020-21-October-Budget-REDRAFT-1.pdf>.

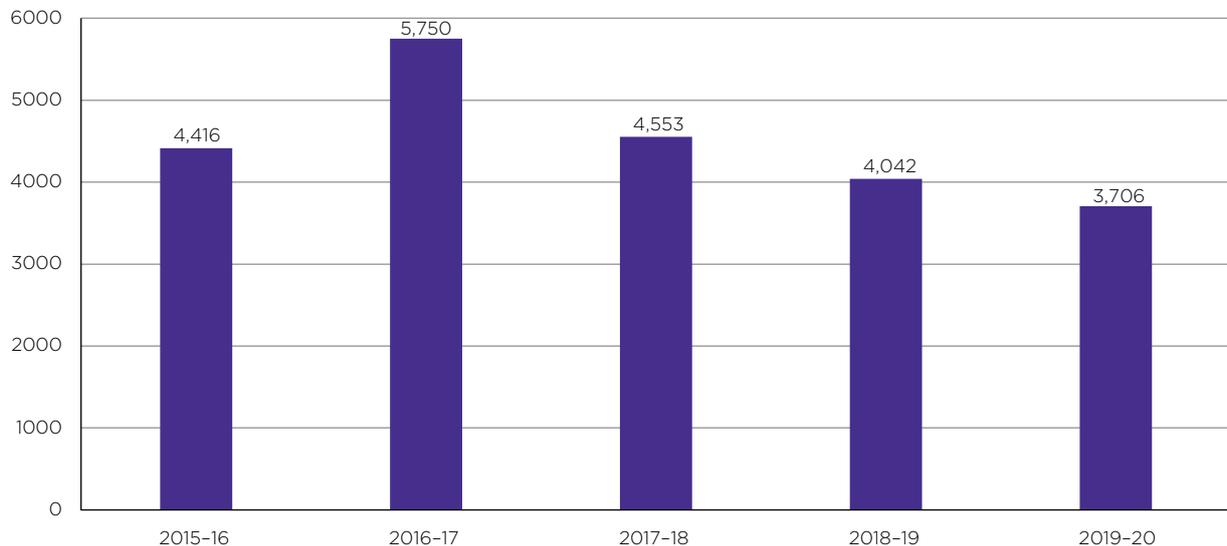
2.8 Consumer complaints about private health insurance

Complaints received by the PHIO

The main complaints agency for consumers about their private health insurance is the PHIO. Figure 7 shows that in 2019–20, the PHIO received 3,706 complaints about private health insurance.¹⁰² The number of complaints decreased by 8.3% from the 2018–19 figure of 4,042.¹⁰³

The PHIO received 14.5% fewer complaints during the April–June 2020 quarter than during the corresponding quarter in 2019, and the PHIO noted that COVID-19 may have impacted these complaint numbers, as consumers were not accessing their benefits.¹⁰⁴ This trend appears to have continued into the July–September 2020 quarter, during which period the PHIO received 10.1% fewer complaints compared to the same quarter in 2019.¹⁰⁵ The PHIO noted that it received more complaints in September 2020 than in July or August 2020, which it considered was ‘...partly due to insurers applying the delayed 2020 rate increase from 1 October which kept private health insurance top of mind for some consumers.’¹⁰⁶

Figure 7: Total complaints received by the PHIO, 2015–16 to 2019–20



Source data: Commonwealth Ombudsman annual reports 2017–18, 2018–19 and 2019–20

¹⁰² Commonwealth Ombudsman, *Commonwealth Ombudsman Annual Report 2019-20*, October 2020, viewed 20 November 2020, p. 40.

¹⁰³ Commonwealth Ombudsman, *Commonwealth Ombudsman Annual Report 2018-19*, October 2019, viewed 20 November 2020, p. 85.

¹⁰⁴ Commonwealth Ombudsman, *Commonwealth Ombudsman Private Health Insurance quarterly bulletin 95: 1 April-30 June 2020*, viewed 2 November 2020, p. 4, https://www.ombudsman.gov.au/__data/assets/pdf_file/0020/111395/Private-Health-Insurance-Quarterly-Bulleting-95-1-April-to-30-June-2020.pdf.

¹⁰⁵ Commonwealth Ombudsman, *Commonwealth Ombudsman Private Health Insurance quarterly bulletin 96: 1 July-30 September 2020*, viewed 24 November 2020, p. 3, https://www.ombudsman.gov.au/__data/assets/pdf_file/0020/112079/Private-health-Insurance-Quarterly-Bulletin-96-1-July-to-30-September-2020.pdf.

¹⁰⁶ Ibid.

The PHIO reported that 3,150 complaints in 2019–20 were about health insurers, which represents approximately 85% of complaints to the PHIO in 2019–20.¹⁰⁷ The PHIO received 159 complaints about private health insurance rule changes in 2019–20¹⁰⁸, which is a decrease of almost 29% from the corresponding 2018–19 figure of 223.¹⁰⁹

Complaints by issue

The top five categories for complaints to the PHIO—benefits, membership, service, waiting period and information—have remained the same for the past five years, as shown in figure 8. The key issues within these complaint categories are as follows:

- benefits: hospital exclusions and restrictions, general treatment (extras or ancillary benefits), delays in payment
- membership: cancellation, clearance certificates
- service: service delays, premium payment problems, general service issues
- information: verbal advice, lack of notification
- waiting period: obstetric, pre-existing conditions.

Figure 8 shows that complaints declined in the top five complaint categories from 2018–19 to 2019–20. Complaints about benefits, membership, service, and waiting period all decreased by between 5 and 10%¹¹⁰, and complaints about information decreased by more than 18%.¹¹¹

Figure 8 also shows that issues regarding the benefits paid by insurers to consumers continued to account for the highest level of complaints. Key issues of concern with the benefit category in 2019–20 included hospital policies with unexpected exclusions and restrictions and there was also a significant number of complaints about extras treatments.¹¹²

107 Commonwealth Ombudsman, *Commonwealth Ombudsman Private Health Insurance quarterly bulletin 95: 1 April–30 June 2020*, viewed 2 November 2020, p. 8, https://www.ombudsman.gov.au/__data/assets/pdf_file/0020/111395/Private-Health-Insurance-Quarterly-Bulleting-95-1-April-to-30-June-2020.pdf.

108 *ibid.*, p. 10.

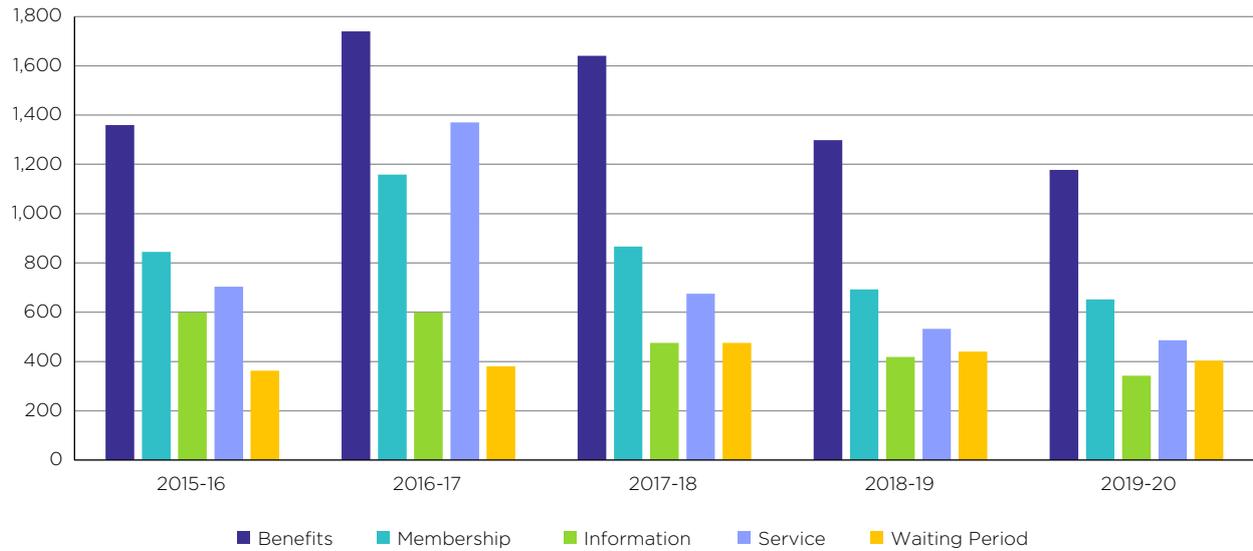
109 Commonwealth Ombudsman, *Commonwealth Ombudsman Private Health Insurance quarterly bulletin 91: 1 April–30 June 2019*, viewed 2 November 2020, p. 7, https://www.ombudsman.gov.au/__data/assets/pdf_file/0018/103446/PHI-QB-91.pdf.

110 Commonwealth Ombudsman, *Commonwealth Ombudsman Private Health Insurance quarterly bulletin 95: 1 April–30 June 2020*, viewed 2 November 2020, p. 10, https://www.ombudsman.gov.au/__data/assets/pdf_file/0020/111395/Private-Health-Insurance-Quarterly-Bulleting-95-1-April-to-30-June-2020.pdf; Commonwealth Ombudsman, *Commonwealth Ombudsman Annual Report 2018–19*, Canberra, October 2019, viewed 20 November 2020, p. 89. Complaints about benefits decreased by 9.3%, membership complaints decreased by 5.9% and service complaints decreased by 8.8%.

111 Commonwealth Ombudsman, *Commonwealth Ombudsman Private Health Insurance quarterly bulletin 95: 1 April–30 June 2020*, viewed 2 November 2020, p. 10, https://www.ombudsman.gov.au/__data/assets/pdf_file/0020/111395/Private-Health-Insurance-Quarterly-Bulleting-95-1-April-to-30-June-2020.pdf; Commonwealth Ombudsman, *Commonwealth Ombudsman Annual Report 2018–19*, October 2019, viewed 20 November 2020, p. 90.

112 Commonwealth Ombudsman, *Commonwealth Ombudsman Private Health Insurance quarterly bulletin 95: 1 April–30 June 2020*, viewed 2 November 2020, p. 10, https://www.ombudsman.gov.au/__data/assets/pdf_file/0020/111395/Private-Health-Insurance-Quarterly-Bulleting-95-1-April-to-30-June-2020.pdf.

Figure 8: PHIO complaints, by issue, 2015-16 to 2019-20



Source data: Commonwealth Ombudsman annual reports 2016-17, 2017-18, 2018-19 and 2019-20

ACCC contacts received relating to private health insurance

The ACCC and state and territory fair trading agencies also receive consumer complaints relevant to the private health insurance industry. However, the ACCC is not a dispute resolution body and does not generally receive a large number of complaints about private health insurance.

In 2019-20, the ACCC received 246 contacts (enquiries and complaints) in relation to private health insurance issues. This represented a 45% increase from the previous financial year, when 170 contacts were received. The majority of private health insurance contacts related to consumer protection issues, and over 50% of contacts concerned potentially misleading or deceptive conduct, or potentially false representations.

3. ACCC enforcement actions, competition exemption and industry engagement

Private health insurers and other health industry participants have been the subject of a number of recent ACCC enforcement matters relating to the health sector. This chapter outlines recent ACCC actions, including matters subject to court proceedings.

3.1 ACCC enforcement actions

Matter awaiting outcome

NIB

The ACCC is awaiting the outcome of proceedings instituted in the Federal Court in May 2017 against NIB Health Funds Limited, regarding alleged misleading or deceptive conduct, unconscionable conduct and false representations.¹¹³

The proceedings relate to NIB's failure to notify members in advance of its decision to remove certain eye procedures from its 'MediGap Scheme' in 2015. Under the MediGap Scheme, members had previously been able to obtain these eye procedures without facing out-of-pocket costs when doctors participated in the scheme.

Matters concluded

Ramsay Health Care Australia

On 12 March 2020, the Federal Court dismissed the ACCC's case against Ramsay Health Care Australia Pty Ltd for alleged misuse of market power and exclusive dealing in the Coffs Harbour region.¹¹⁴

At the relevant time, Ramsay operated Baringa Private Hospital and the Coffs Harbour Day Surgery, the only private hospital and private day surgery facilities in the Coffs Harbour region. The Coffs Harbour Day Surgery closed in mid-2017, and Baringa Hospital remained the only private hospital in the region. Coffs Harbour surgeons used operating theatres at Ramsay's facilities to perform surgical procedures on private patients. The ACCC alleged that senior Ramsay executives told a group of surgeons planning to establish a competing private day surgery facility in Coffs Harbour that their access to operating theatre time at Baringa Private Hospital would be substantially reduced or withdrawn if they proceeded with their plans.

Whilst the Court found that Ramsay had a substantial degree of market power in the supply of private in-patient surgery services to surgeons in Coffs Harbour, the Court did not find there was sufficient evidence Ramsay made the alleged threats to surgeons.

Medibank

On 16 July 2020, the Federal Court ordered Medibank Private Limited, trading as 'ahm Health Insurance', to pay \$5 million in penalties for making misleading representations to members about the benefits offered by their ahm health insurance policies, in breach of the ACL.¹¹⁵

113 ACCC, *ACCC takes action against NIB*, Media release, 30 May 2017, <https://www.accc.gov.au/media-release/accc-takes-action-against-nib>.

114 ACCC, *Case against Ramsay Health Care dismissed*, Media release, 12 March 2020, <https://www.accc.gov.au/media-release/case-against-ramsay-health-care-dismissed>.

115 ACCC, *Medibank to pay \$5 million in penalties for misrepresentations to members about benefits*, Media release, 16 July 2020, <https://www.accc.gov.au/media-release/medibank-to-pay-5-million-in-penalties-for-misrepresentations-to-members-about-benefits>.

Medibank falsely advised 849 members with ahm's "lite" or "boost" policies who had lodged claims or enquired about their coverage, that they were not covered for joint investigations or joint reconstruction procedures, when these policies in fact entitled them to coverage for these procedures. At least 1,396 enquiries or claims were incorrectly rejected.

Medibank admitted this breach occurred because it failed to include 186 joint investigation and reconstruction services in its claiming system for the ahm "lite" policy between February 2013 and July 2018, and failed to include 26 such services in its system for the "boost" policy between February 2017 and July 2018.

Despite Medibank identifying in June 2017 that some service codes had not been included, Medibank rejected 370 enquiries or claims over another 13 months, until the conduct ceased in July 2018.

The services involved included critical procedures, such as spinal surgery, pelvic surgery, hip surgery and knee reconstructions, as well as procedures on fibulas, elbows, heels, wrists, kneecaps and jaws.

Medibank has also undertaken to the ACCC that it will contact another 670 policyholders who have not already taken up Medibank's offer for compensation and provide them with a further chance to claim. Medibank will also pay these members an additional \$400 as a one-off payment.

HealthEngine

On 20 August 2020, the Federal Court ordered HealthEngine Pty Ltd to pay \$2.9 million in penalties for engaging in misleading conduct in relation to the sharing of personal patient information to private health insurance brokers and publishing misleading patient reviews and ratings.¹¹⁶

HealthEngine admitted that between 30 April 2014 and 30 June 2018 it gave non-clinical personal information, such as names, dates of birth, phone numbers, email addresses, of over 135,000 patients to third party private health insurance brokers without adequately disclosing this to consumers. HealthEngine earned more than \$1.8 million from its arrangements with private health insurance brokers during this period.

HealthEngine was also ordered to contact affected consumers and provide details of how they can regain control of their personal information.

HealthEngine also admitted that between 31 March 2015 and 1 March 2018, it did not publish around 17,000 reviews and edited around 3,000 reviews to remove negative aspects, or to embellish them. HealthEngine also admitted that it misrepresented to consumers the reasons why it did not publish a rating for some health or medical practices.

3.2 Competition exemption

Competition exemption for private health insurers to coordinate during COVID-19

On 17 September 2020, the ACCC granted private health insurers an exemption from the operation of the competition laws until 31 March 2021 in relation to conduct to coordinate the provision of financial relief to policyholders during the COVID-19 pandemic, and broadening insurance coverage to include COVID-19 treatment, tele-health and medical treatment provided at home.¹¹⁷ The exemption is conditional on details of proposed measures being provided to the ACCC in advance, and excludes agreements to increase premiums.

116 ACCC, *HealthEngine to pay \$2.9 million for misleading reviews and patient referrals*, Media release, 20 August 2020, <https://www.accc.gov.au/media-release/healthengine-to-pay-29-million-for-misleading-reviews-and-patient-referrals>.

117 ACCC, 'ACCC grants authorisation to cooperate in relation to private health insurance coverage during the COVID-19 pandemic', viewed 13 November 2020, <https://www.accc.gov.au/update/accc-grants-authorisation-to-cooperate-in-relation-to-private-health-insurance-coverage-during-the-covid-19-pandemic>.

3.3 Consumer Health Regulators Group

Noting the potential for the ACCC's consumer law work to intersect with other health sector regulators, the ACCC is a member of the Consumer Health Regulators Group.¹¹⁸ The group meets on a quarterly basis (or as otherwise needed), to exchange information, including about emerging issues of interest or concern, and to ensure responsibilities and functions of each regulator within the consumer health industry are understood and consistently applied.

¹¹⁸ In addition to the ACCC, other members include the Australian Health Practitioner Regulation Agency (who work in partnership with 15 National Boards in the National Registration and Accreditation Scheme), the PHIO, the Therapeutic Goods Administration, the NSW Health Consumer Complaints Commission, the Victorian Health Complaints Commissioner, the Department of Health (Cth), the Department of Health (Qld), the NSW Fair Trading Commissioner and Consumer Affairs Victoria.

4. Policy developments in private health insurance

The observations in this report are made in the context of recent and ongoing reforms to the sector. This chapter provides an update on policy developments relating to private health insurance during and after the reporting period.

4.1 Initiatives announced in the 2020–21 budget

On 6 October 2020, the Australian government announced a range of initiatives aimed at making private health insurance simpler and more affordable, including:

- The commitment of an additional \$17.1 million to enhance the government's [Medical Costs Finder](#) website, which was launched on 30 December 2019, and currently shows typical out-of-pocket costs for common treatments and procedures in the private system, based on a person's location.¹¹⁹ The upgrade is intended to help facilitate the provision of information about fees for particular medical specialists on the website. The Department of Health has indicated that it is looking to publish information about individual specialists' fees iteratively, during the course of 2021.¹²⁰
- The investment of \$2.4 million over 2020–21 and 2021–22 to fund external actuarial studies into the following two aspects of Australia's private health insurance system (with a view to improving value and effectiveness for consumers):¹²¹
 - Lifetime Health Cover, which provides a financial incentive for people to take out private hospital cover before the age of 31 years
 - Risk Equalisation, which supports community rating by sharing the cost of certain claims between insurers (the Department of Health noted that current policy settings may not adequately incentivise private health insurers to provide access to new preventive health measures).
- From 1 April 2021:
 - increasing the maximum age of dependants for private health insurance policies from 24 to 31, which is the age at which Lifetime Health Cover commences
 - removing the age limit for dependants with a disability.¹²²
- Detailed consultation with the sector about making home and community based mental health and rehabilitation care more accessible through private health insurance, with the goal of implementing the following reforms by 1 April 2021:¹²³
 - allowing patients to recover in their own homes—if that is their preference and it is clinically appropriate—with the support of their doctor
 - expanding insurer options for funding of non-Medicare Benefits Schedule mental health care services from general treatment and hospital treatment policies.

119 Department of Health, *Budget 2020-21: Private Health Insurance – transparency of out-of-pocket costs*, 6 October 2020, viewed 20 November 2020, <https://www.health.gov.au/resources/collections/budget-2020-21-supporting-our-hospitals>; Department of Health, *Medical Costs Finder*, 31 August 2020, viewed 20 November 2020, <https://www.health.gov.au/resources/apps-and-tools/medical-costs-finder>.

120 Senate Community Affairs Legislation Committee, *Proof Committee Hansard*, 26 October 2020, viewed 20 November 2020, pp. 117 - 118, https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/cd29d668-14ab-48d0-897e-6cd47be467a4/toc_pdf/Community%20Affairs%20Legislation%20Committee_2020_10_26_8249.pdf;fileType=application%2Fpdf#search=%22committees/estimate/cd29d668-14ab-48d0-897e-6cd47be467a4/0000%22.

121 Department of Health, *Budget 2020-21: Private Health Insurance – actuarial studies of incentives*, 6 October 2020, viewed 20 November 2020, <https://www.health.gov.au/resources/collections/budget-2020-21-supporting-our-hospitals>.

122 Department of Health, *Budget 2020-21: Private Health Insurance – increasing the age of dependents*, 6 October 2020, viewed 20 November 2020, <https://www.health.gov.au/resources/collections/budget-2020-21-supporting-our-hospitals>.

123 Department of Health, *Budget 2020-21: Private Health Insurance – expanding home and community based mental health and rehabilitation care*, 6 October 2020, viewed 20 November 2020, <https://www.health.gov.au/resources/collections/budget-2020-21-supporting-our-hospitals>.



AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

